



General Assembly

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Amendment

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HB0516907291HD0

Offered by:

REP. O'ROURKE, 32nd Dist.

REP. FLOREN, 149th Dist.

REP. HAMZY, 78th Dist.

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REP. CHAPIN, 67th Dist.

To: House Bill No. 5169

File No. 176

Cal. No. 138

**"AN ACT CONCERNING THE FILING OF REGULAR MEETING
AGENDAS UNDER THE FREEDOM OF INFORMATION ACT."**

1 After the last section, add the following and renumber sections and
2 internal references accordingly:

3 "Sec. 501. Subsections (b) to (d), inclusive, of section 1-210 of the
4 general statutes are repealed and the following is substituted in lieu
5 thereof (*Effective October 1, 2003*):

6 (b) Nothing in the Freedom of Information Act shall be construed to
7 require disclosure of:

8 (1) Preliminary drafts or notes provided the public agency has
9 determined that the public interest in withholding such documents
10 clearly outweighs the public interest in disclosure;

11 (2) Personnel or medical files and similar files the disclosure of

12 which would constitute an invasion of personal privacy;

13 (3) Records of law enforcement agencies not otherwise available to
14 the public which records were compiled in connection with the
15 detection or investigation of crime, if the disclosure of said records
16 would not be in the public interest because it would result in the
17 disclosure of (A) the identity of informants not otherwise known or the
18 identity of witnesses not otherwise known whose safety would be
19 endangered or who would be subject to threat or intimidation if their
20 identity was made known, (B) signed statements of witnesses, (C)
21 information to be used in a prospective law enforcement action if
22 prejudicial to such action, (D) investigatory techniques not otherwise
23 known to the general public, (E) arrest records of a juvenile, which
24 shall also include any investigatory files, concerning the arrest of such
25 juvenile, compiled for law enforcement purposes, (F) the name and
26 address of the victim of a sexual assault under section 53a-70, 53a-70a,
27 53a-71, 53a-72a, 53a-72b or 53a-73a, or injury or risk of injury, or
28 impairing of morals under section 53-21, or of an attempt thereof, or
29 (G) uncorroborated allegations subject to destruction pursuant to
30 section 1-216;

31 (4) Records pertaining to strategy and negotiations with respect to
32 pending claims or pending litigation to which the public agency is a
33 party until such litigation or claim has been finally adjudicated or
34 otherwise settled;

35 (5) (A) Trade secrets, which for purposes of the Freedom of
36 Information Act, are defined as information, including formulas,
37 patterns, compilations, programs, devices, methods, techniques,
38 processes, drawings, cost data, or customer lists that (i) derive
39 independent economic value, actual or potential, from not being
40 generally known to, and not being readily ascertainable by proper
41 means by, other persons who can obtain economic value from their
42 disclosure or use, and (ii) are the subject of efforts that are reasonable
43 under the circumstances to maintain secrecy; and

44 (B) Commercial or financial information given in confidence, not
45 required by statute;

46 (6) Test questions, scoring keys and other examination data used to
47 administer a licensing examination, examination for employment or
48 academic examinations;

49 (7) The contents of real estate appraisals, engineering or feasibility
50 estimates and evaluations made for or by an agency relative to the
51 acquisition of property or to prospective public supply and
52 construction contracts, until such time as all of the property has been
53 acquired or all proceedings or transactions have been terminated or
54 abandoned, provided the law of eminent domain shall not be affected
55 by this provision;

56 (8) Statements of personal worth or personal financial data required
57 by a licensing agency and filed by an applicant with such licensing
58 agency to establish the applicant's personal qualification for the
59 license, certificate or permit applied for;

60 (9) Records, reports and statements of strategy or negotiations with
61 respect to collective bargaining;

62 (10) Records, tax returns, reports and statements exempted by
63 federal law or state statutes or communications privileged by the
64 attorney-client relationship;

65 (11) Names or addresses of students enrolled in any public school or
66 college without the consent of each student whose name or address is
67 to be disclosed who is eighteen years of age or older and a parent or
68 guardian of each such student who is younger than eighteen years of
69 age, provided this subdivision shall not be construed as prohibiting the
70 disclosure of the names or addresses of students enrolled in any public
71 school in a regional school district to the board of selectmen or town
72 board of finance, as the case may be, of the town wherein the student
73 resides for the purpose of verifying tuition payments made to such
74 school;

- 75 (12) Any information obtained by the use of illegal means;
- 76 (13) Records of an investigation or the name of an employee
77 providing information under the provisions of section 4-61dd;
- 78 (14) Adoption records and information provided for in sections 45a-
79 746, 45a-750 and 45a-751;
- 80 (15) Any page of a primary petition, nominating petition,
81 referendum petition or petition for a town meeting submitted under
82 any provision of the general statutes or of any special act, municipal
83 charter or ordinance, until the required processing and certification of
84 such page has been completed by the official or officials charged with
85 such duty after which time disclosure of such page shall be required;
- 86 (16) Records of complaints, including information compiled in the
87 investigation thereof, brought to a municipal health authority pursuant
88 to chapter 368e or a district department of health pursuant to chapter
89 368f, until such time as the investigation is concluded or thirty days
90 from the date of receipt of the complaint, whichever occurs first;
- 91 (17) Educational records which are not subject to disclosure under
92 the Family Educational Rights and Privacy Act, 20 USC 1232g;
- 93 (18) Records, the disclosure of which the Commissioner of
94 Correction, or as it applies to Whiting Forensic Division facilities of the
95 Connecticut Valley Hospital, the Commissioner of Mental Health and
96 Addiction Services, has reasonable grounds to believe may result in a
97 safety risk, including the risk of harm to any person or the risk of an
98 escape from, or a disorder in, a correctional institution or facility under
99 the supervision of the Department of Correction or Whiting Forensic
100 Division facilities. Such records shall include, but are not limited to:
- 101 (A) Security manuals, including emergency plans contained or
102 referred to in such security manuals;
- 103 (B) Engineering and architectural drawings of correctional
104 institutions or facilities or Whiting Forensic Division facilities;

105 (C) Operational specifications of security systems utilized by the
106 Department of Correction at any correctional institution or facility or
107 Whiting Forensic Division facilities, except that a general description
108 of any such security system and the cost and quality of such system
109 may be disclosed;

110 (D) Training manuals prepared for correctional institutions and
111 facilities or Whiting Forensic Division facilities that describe, in any
112 manner, security procedures, emergency plans or security equipment;

113 (E) Internal security audits of correctional institutions and facilities
114 or Whiting Forensic Division facilities;

115 (F) Minutes or recordings of staff meetings of the Department of
116 Correction or Whiting Forensic Division facilities, or portions of such
117 minutes or recordings, that contain or reveal information relating to
118 security or other records otherwise exempt from disclosure under this
119 subdivision;

120 (G) Logs or other documents that contain information on the
121 movement or assignment of inmates or staff at correctional institutions
122 or facilities; and

123 (H) Records that contain information on contacts between inmates,
124 as defined in section 18-84, and law enforcement officers;

125 (19) Records when there are reasonable grounds to believe
126 disclosure may result in a safety risk, including the risk of harm to any
127 person, any government-owned or leased institution or facility or any
128 fixture or appurtenance and equipment attached to, or contained in,
129 such institution or facility, except that such records shall be disclosed
130 to a law enforcement agency upon the request of the law enforcement
131 agency. Such reasonable grounds shall be determined (A) with respect
132 to records concerning any executive branch agency of the state or any
133 municipal, district or regional agency, by the Commissioner of Public
134 Works, after consultation with the chief executive officer of the agency;
135 (B) with respect to records concerning Judicial Department facilities,

136 by the Chief Court Administrator; and (C) with respect to records
137 concerning the Legislative Department, by the executive director of the
138 Joint Committee on Legislative Management. As used in this section,
139 "government-owned or leased institution or facility" includes, but is
140 not limited to, an institution or facility owned or leased by a public
141 service company, as defined in section 16-1, a certified
142 telecommunications provider, as defined in section 16-1, a water
143 company, as defined in section 25-32a, or a municipal utility that
144 furnishes electric, gas or water service, but does not include an
145 institution or facility owned or leased by the federal government, and
146 "chief executive officer" includes, but is not limited to, an agency head,
147 department head, executive director or chief executive officer. Such
148 records include, but are not limited to:

149 (i) Security manuals or reports;

150 (ii) Engineering and architectural drawings of government-owned
151 or leased institutions or facilities;

152 (iii) Operational specifications of security systems utilized at any
153 government-owned or leased institution or facility, except that a
154 general description of any such security system and the cost and
155 quality of such system, may be disclosed;

156 (iv) Training manuals prepared for government-owned or leased
157 institutions or facilities that describe, in any manner, security
158 procedures, emergency plans or security equipment;

159 (v) Internal security audits of government-owned or leased
160 institutions or facilities;

161 (vi) Minutes or records of meetings, or portions of such minutes or
162 records, that contain or reveal information relating to security or other
163 records otherwise exempt from disclosure under this subdivision;

164 (vii) Logs or other documents that contain information on the
165 movement or assignment of security personnel at government-owned

- 166 or leased institutions or facilities; [and]
- 167 (viii) Emergency plans and emergency recovery or response plans;
168 and
- 169 (ix) Residential addresses, residential telephone numbers,
170 residential electronic mail addresses or other residential or personal
171 contact information related to a state employee, or classification of
172 employee, where disclosure may result in a significant risk of harm to
173 the employee, or employees in that classification;
- 174 (x) Procurement documents concerning security and surveillance
175 equipment and investigative services when the disclosure of the
176 equipment type or subject of the services could make known the target
177 of an investigation or that an investigation is in progress;
- 178 (xi) The content of any workplace violence incident report,
179 including, but not limited to, information on the identity of a
180 complainant, the investigators or the circumstances surrounding the
181 incident or threat when disclosure poses a substantial risk of harm to
182 the complainant or another person; and
- 183 (xii) With respect to a water company, as defined in section 25-32a,
184 that provides water service: Vulnerability assessments and risk
185 management plans, operational plans, portions of water supply plans
186 submitted pursuant to section 25-32d that contain or reveal
187 information the disclosure of which may result in a security risk to a
188 water company, inspection reports, technical specifications and other
189 materials that depict or specifically describe critical water company
190 operating facilities, collection and distribution systems or sources of
191 supply;
- 192 (20) Records of standards, procedures, processes, software and
193 codes, not otherwise available to the public, the disclosure of which
194 would compromise the security or integrity of an information
195 technology system.

196 (c) Whenever a public agency receives a request from any person
197 confined in a correctional institution or facility or a Whiting Forensic
198 Division facility, for disclosure of any public record under the
199 Freedom of Information Act, the public agency shall promptly notify
200 the Commissioner of Correction or the Commissioner of Mental Health
201 and Addiction Services in the case of a person confined in a Whiting
202 Forensic Division facility of such request, in the manner prescribed by
203 the commissioner, before complying with the request as required by
204 the Freedom of Information Act. If the commissioner believes the
205 requested record is exempt from disclosure pursuant to subdivision
206 (18) of subsection (b) of this section, the commissioner may withhold
207 such record from such person when the record is delivered to the
208 person's correctional institution or facility or Whiting Forensic
209 Division facility.

210 (d) Whenever a public agency, except the Judicial Department or
211 Legislative Department, receives a request from any person for
212 disclosure of any records described in subdivision (19) of subsection
213 (b) of this section under the Freedom of Information Act, the public
214 agency shall promptly notify the Commissioner of Public Works of
215 such request, in the manner prescribed by the commissioner, before
216 complying with the request as required by the Freedom of Information
217 Act and for information related to a water company, as defined in
218 section 25-32a, the public agency shall promptly notify the water
219 company, before complying with the request as required by the
220 Freedom of Information Act. If the commissioner, after consultation
221 with the chief executive officer of the applicable agency or after
222 consultation with the chief executive officer of the applicable water
223 company for information related to a water company, as defined in
224 section 25-32a, believes the requested record is exempt from disclosure
225 pursuant to subdivision (19) of subsection (b) of this section, the
226 commissioner may direct the agency to withhold such record from
227 such person. In any appeal brought under the provisions of section 1-
228 206 of the Freedom of Information Act for denial of access to records
229 for any of the reasons described in subdivision (19) of subsection (b) of

230 this section, such appeal shall be against the Commissioner of Public
231 Works, exclusively, or, in the case of records concerning Judicial
232 Department facilities, the Chief Court Administrator or, in the case of
233 records concerning the Legislative Department, the executive director
234 of the Joint Committee on Legislative Management.

235 Sec. 502. (NEW) (*Effective from passage*) The name and address of a
236 sexual harassment complainant in any sexual harassment investigation
237 conducted by a public agency and any related identifying information
238 shall be confidential and shall be disclosed only upon order of the
239 Superior Court, except the public agency (1) shall disclose the name of
240 the sexual harassment complainant to the accused during the public
241 agency's sexual harassment investigation, and (2) may disclose the
242 name of the sexual harassment complainant to other persons
243 participating in the public agency's sexual harassment investigation.
244 For purposes of this section, "public agency" has the same meaning as
245 in section 1-200 of the general statutes.

246 Sec. 503. (NEW) (*Effective July 1, 2003*) Any person (1) claiming to
247 have been aggrieved by any ruling of any election official in
248 connection with a referendum, (2) claiming that there has been a
249 mistake in the count of votes cast for a referendum, or (3) claiming to
250 be aggrieved by a violation of any provision of section 9-355, 9-357 to
251 9-361, inclusive, 9-364, 9-364a or 9-365 of the general statutes in the
252 casting of absentee ballots at a referendum, may bring a complaint to
253 any judge of the Superior Court for relief from such ruling, mistake or
254 violation. In any action brought pursuant to the provisions of this
255 section, the complainant shall send a copy of the complaint by first
256 class mail, or deliver a copy of the complaint by hand, to the State
257 Elections Enforcement Commission. If such complaint is made prior to
258 such referendum, such judge shall proceed expeditiously to render
259 judgment on the complaint and shall cause notice of the hearing to be
260 given to the Secretary of the State and the State Elections Enforcement
261 Commission. If such complaint is made subsequent to such
262 referendum, it shall be brought within thirty days after such
263 referendum to any judge of the Superior Court, in which the person

264 shall set out the claimed errors of the election official, the claimed
265 errors in the count or the claimed violations of said sections. Such
266 judge shall forthwith order a hearing to be held upon such complaint,
267 upon a day not more than five nor less than three days from the
268 making of such order, and shall cause notice of not less than three nor
269 more than five days to be given to any person who may be affected by
270 the decision upon such hearing, to such election official, the Secretary
271 of the State, the State Elections Enforcement Commission and to any
272 other party or parties whom such judge deems proper parties to the
273 hearing, of the time and place for the hearing upon such complaint.
274 Such judge shall, on the day fixed for such hearing and without
275 unnecessary delay, proceed to hear the parties. If sufficient reason is
276 shown, such judge may order any voting machines to be unlocked or
277 any ballot boxes to be opened and a recount of the votes cast, including
278 absentee ballots, to be made. Such judge shall, if such judge finds any
279 error in the rulings of the election official or any mistake in the count
280 of the votes, certify the result of such judge's finding or decision to the
281 Secretary of the State before the tenth day succeeding the conclusion of
282 the hearing. Such judge may order a new referendum or a change in
283 the existing referendum schedule. Such certificate of such judge's
284 finding or decision shall be final and conclusive upon all questions
285 relating to errors in the ruling of such election officials, to the
286 correctness of such count, and, for the purposes of this section only,
287 such claimed violations, and shall operate to correct the returns of the
288 moderators or presiding officers, so as to conform to such finding or
289 decision, except that this section shall not affect the right of appeal to
290 the Supreme Court and it shall not prevent such judge from reserving
291 such questions of law for the advice of the Supreme Court as provided
292 in section 9-325 of the general statutes. Such judge may, if necessary,
293 issue such judge's writ of mandamus, requiring the adverse party and
294 those under such judge to deliver to the complainant the
295 appurtenances of such office, and shall cause such judge's finding and
296 decree to be entered on the records of the Superior Court in the proper
297 judicial district.

298 Sec. 504. Section 19a-411 of the general statutes is repealed and the
299 following is substituted in lieu thereof (*Effective October 1, 2003*):

300 (a) The Office of the Chief Medical Examiner shall keep full and
301 complete records properly indexed, giving the name, if known, of
302 every person whose death is investigated, the place where the body
303 was found, the date, cause and manner of death and containing all
304 other relevant information concerning the death and a copy of the
305 death certificate. The full report and detailed findings of the autopsy
306 and toxicological and other scientific investigation, if any, shall be a
307 part of the record in each case. The office shall promptly notify the
308 state's attorney having jurisdiction of such death and deliver to the
309 state's attorney copies of all pertinent records relating to every death in
310 which further investigation may be advisable. Any state's attorney,
311 chief of police or other law enforcement official may, upon request,
312 secure copies of such records or other information deemed necessary
313 by such official for the performance of his or her official duties.

314 (b) The report of examinations conducted by the Chief Medical
315 Examiner, Deputy Chief Medical Examiner, an associate medical
316 examiner or an authorized assistant medical examiner, and of the
317 autopsy and other scientific findings may be made available to the
318 public only through the Office of the Chief Medical Examiner and in
319 accordance with this section, section 1-210, as amended by this act, and
320 the regulations of the commission. Any person may obtain copies of
321 such records upon such conditions and payment of such fees as may
322 be prescribed by the commission, except that no person with a
323 legitimate interest in the records shall be denied access to such records,
324 and no person may be denied access to records concerning a person in
325 the custody of the state at the time of death or a person who died as a
326 result of police action. As used in this section, a "person in the custody
327 of the state" is a person committed to the custody of (1) the
328 Commissioner of Correction for confinement in a correctional
329 institution or facility or a community residence, (2) the Commissioner
330 of Children and Families, or (3) the Commissioner of Mental
331 Retardation.

332 (c) Upon application by the Chief Medical Examiner or state's
333 attorney to the superior court for the judicial district in which the
334 death occurred, or to any judge of the superior court in such judicial
335 district when said court is not then sitting, said court or such judge
336 may limit such disclosure to the extent that there is a showing by the
337 Chief Medical Examiner or state's attorney of compelling public
338 interest against disclosure of any particular document or documents.
339 Public authorities, professional, medical, legal or scientific bodies or
340 universities or similar research bodies may, in the discretion of the
341 commission, have access to all records upon such conditions and
342 payment of such fees as may be prescribed by the commission. Where
343 such information is made available for scientific or research purposes,
344 such conditions shall include a requirement that the identity of the
345 deceased persons shall remain confidential and shall not be published.

346 Sec. 505. Subdivision (6) of section 9-372 of the general statutes is
347 repealed and the following is substituted in lieu thereof (*Effective July*
348 *1, 2003*):

349 (6) "Minor party" means (A) a political party or organization which
350 is not a major party and whose candidate for the office in question
351 received at the last-preceding regular election for such office, under the
352 designation of that political party or organization, at least one per cent
353 of the whole number of votes cast for all candidates for such office at
354 such election, (B) a political party or organization whose candidate for
355 Governor at the last-preceding election for Governor received, under
356 the designation of that political party or organization, at least two per
357 cent, but less than twenty per cent, of the whole number of votes cast
358 for all candidates for Governor at such election, or (C) a political party
359 having, at the last-preceding election for Governor, a number of
360 enrolled members on the active and inactive registry lists equal to at
361 least one per cent, but less than twenty per cent, of the total number of
362 enrolled members of all political parties on the active registry list in the
363 state.

364 Sec. 506. Section 1-217 of the general statutes is repealed and the

365 following is substituted in lieu thereof (*Effective October 1, 2003*):

366 (a) No public agency may disclose, under the Freedom of
367 Information Act, the residential address of any of the following
368 persons if such person has provided the public agency with the written
369 notice set forth in subsection (b) of this section:

370 (1) A federal court judge, federal court magistrate, judge of the
371 Superior Court, Appellate Court or Supreme Court of the state, or
372 family support magistrate;

373 (2) A sworn member of a municipal police department or a sworn
374 member of the Division of State Police within the Department of Public
375 Safety;

376 (3) An employee of the Department of Correction;

377 (4) An attorney-at-law who represents or has represented the state
378 in a criminal prosecution;

379 (5) An attorney-at-law who is or has been employed by the Public
380 Defender Services Division or a social worker who is employed by the
381 Public Defender Services Division;

382 (6) An inspector employed by the Division of Criminal Justice;

383 (7) A firefighter;

384 (8) An employee of the Department of Children and Families;

385 (9) A member or employee of the Board of Parole;

386 (10) An employee of the judicial branch; [or]

387 (11) A member or employee of the Commission on Human Rights
388 and Opportunities; or

389 (12) An employee of the Office of the Victim Advocate.

390 (b) Any person listed in subsection (a) of this section who seeks to
391 prevent a public agency from disclosing the person's residential
392 address shall give the public agency written notice that the person is
393 included in the list set forth in subsection (a) of this section and that
394 the person does not want such residential address disclosed under the
395 Freedom of Information Act. The written notice shall include the
396 person's residential address.

397 [[~~(b)~~] (c)] The business address of any person described in this section
398 shall be subject to disclosure under section 1-210. The provisions of this
399 section shall not apply to Department of Motor Vehicles records
400 described in section 14-10."